

REMARKS:

Claims 10 - 17 are in the case and presented for consideration.

This amendment is being filed with an RCE and the required fee of \$790.00. The commissioner is authorized to charge or credit any under or overpayment to this firm's deposit account number 14-1431.

Applicant withdraws the offer of new Fig. 4 in view of the Examiner's objection and requests the Examiner to withdraw the objection raised in the Office Action of December 31, 2004, page 2 lines 3-6 which stated:

"The drawings are objected to because the details of the inner shoulder, recess and teeth are difficult to discern. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance."

It is believed that a full reading the specification in its entirety and carefully examining Fig.1 will clearly reveal to the person of ordinary skill in this art, the relationship between the shoulder, the recess and the teeth.

To help demonstrate this, attached to this amendment please find a color coded and enlarged copy of a part of Fig. 1 showing in red, the inner body 11 making up a part of the pourer body 10. The blue outer body 12 makes up the other part of the pourer body 10. All of the reference numeral identifying parts of the inner body 11 are also accented in red with the parts of the outer body 12 accented in blue.

A careful reader of this specification will show that the inner body 11 has a flange portion 12 with an outer portion 15 having at its bottom a tooth 18 which engages into the recess 7 of the bottle neck 3, and an upper tooth 19 which, as explained in the specification, projects from an opposite side of the outer portion 15 with respect to the

tooth 18 (see the specification at page 2, lines 16-19). Later on page 2 (specifically page 2, lines 25-26) it is explained that the outer body 12 has a recessed 23 formed in an inner shoulder 22 and that the tooth 19 (of the inner body 11) is engaged with this recess 23.

In an actual product constructed according to the present invention, there are in fact plural teeth 19 and 18 and plural recesses 23 regularly spaced around the circumference of the inner and outer bodies 11, 12. For the purpose of the disclosure and the claimed invention, only one set of teeth 18, 19 with one recess 23 in the outer body 12 are needed.

These parts are not material features of the invention which distinguish it from the prior art but rather are teeth and recesses of known design.

No further disclosure is believed necessary to support the claims on file and the Examiner is again requested to withdraw her drawing requirement.

The Examiner has also rejected claims 10-17 as being indefinite under 35 U.S.C. 112, second paragraph.

Although mentioning claim 1, the Examiner's comments refer to claim 10 since claim 1 has been cancelled. The word "particularly" has been cancelled from claim 10 and other changes made to provide proper antecedent basis for all of the terms utilized in each of the claims. The abstract has also been amended.

The specification and claims are therefore now believed to be in proper form under 35 U.S.C. 112, first and second paragraph.

The Examiner has also rejected claims 10-17 as being obvious from a combination of U.S. patent 5,105,961 to Norel in view of U.S. patent 4,774,064 to Baxter.

The Examiner also rejects claims 10-17 as being obvious from the reverse combination of Baxter in view of Norel and provides reasoning for both rejections.

The Examiner's rejections are both respectfully traversed for the following reasons.

It is noted that claim 10 has been amended also to improve its definition of the invention. Firstly, it has been made clear that the sleeve 35 shown in Figs. 1 and 2, is in fact made up of at least two separate portions shown at 36 and 37 in Fig. 3. Claim 10 has also been amended to better explain that the tubular appendix 39 of the cap 30, before the cap is removed from the pourer body 10, actually performs the function of keeping these two portions circumferentially adjacent each other on the bottle neck 3. Claim 10 goes on to explain that the two sleeve portions are allowed to fall away from the bottle neck when the cap is removed from the pourer body. This language adds the structural relationship and dependency between the tubular appendix 39 and the sleeve portions 36, 37 and is believed to even more clearly distinguish the invention over the prior art.

Turning to the references, "the Examiner points out that Noren shows the claimed combination except for the sleeve of the closure having at least two circumferentially dividable portions. This is not completely true because Noren also lacks a showing of tubular appendix axially connected to the skirt of the cap and extending around the sleeve in order to keep the two portions circumferentially adjoined each other.

It is clear that the element 33 of Noren, which could be considered to be a sleeve, is not divided into at least two pieces and is not provided with any appendix of the skirt of cap which extends axially and keeps the two (not existing) pieces together.

Taking now into consideration the disclosure of Baxter, it is true that Baxter shows a sleeve 24 having at least "two circumferentially dividable portions" but such portions are connected together circumferentially by breakable bridges (see guarantee band 25 and webs 28 and 29).

Moreover, Baxter does not show any tubular appendix of the cap skirt extending around the sleeve over its dividable portions for keeping them together.

Thus, the person of ordinary skill in the art would not combine Baxter and Noren or Noren and Baxter to reach the present invention since neither have the two part sleeve which simply falls apart when the cap is removed since it is no longer covered by the tubular appendix and also provides the tubular appendix to hold the two sleeve portions against the bottle neck before the cap is removed.

By this amendment thus the application and claims are believed to be in condition for allowance and favorable action is respectfully requested.

The Examiner is respectfully urged to telephone the undersigned in the interest of reaching a conclusion to the prosecution of this case.

The undersigned is aware that this is an amendment after final but requests the Examiner's perseverance and patience when considering this amendment.

Respectfully submitted,



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